

Appln. No. 09/864,107  
Amdt. dated March 16, 2005  
Reply to Office Action dated January 26, 2005

### REMARKS/ ARGUMENTS

Reconsideration of the present application, as amended, is respectfully requested.

The January 26, 2005 Office Action and the Examiner's comments have been carefully considered. In response, claims 1, 9, 10, 23 and 24 are amended, claims 20 and 22 are cancelled and remarks are set forth below in a sincere effort to place the present application in form for allowance. The amendments are supported by the application as originally filed. Therefore, no new matter is added.

### PRIOR ART REJECTIONS

In the Office Action claims 1-24 are rejected under 35 USC 103 as being unpatentable over USP 5,740,267 (Echerer) in view of USP 6,461,298 (Fenster et al.). In response, independent claims 1, 10, 23 and 24 are amended to more clearly define the present claimed invention over the cited references. In addition, a minor amendment is made to claim 9 to place the claim in better form for allowance. The amendment of claim 9 is not related to the patentability of the claim.

Amended claim 1 now recites the step of enabling the generation of the plurality of different measurement graphics

Appln. No. 09/864,107  
Amdt. dated March 16, 2005  
Reply to Office Action dated January 26, 2005

based only upon actuation of the at least one button of the mouse when the pointer symbol is situated on the medical image without actuation of the at least one button of the mouse when the pointer symbol is situated on menus, toolbars and control panels such that the measurement graphics are generated without movement of the pointer symbol outside of the medical image. Claims 23 and 24 now recite a similar feature.

Claim 10 recites that the processor is arranged to produce the different measurement graphics based only upon actuation of the at least one button of the pointing device when the pointer symbol is situated on the medical image without actuation of the at least one button of the pointing device when the pointer symbol is situated on menus, toolbars and control panels such that the measurement graphics are produced without movement of the pointer symbol outside of the medical image.

A feature of the present invention is that it is possible to generate different measurement graphics for an image by actuating a mouse button only when a pointer symbol representing the position of the mouse is situated on the medical image (see the specification at page 1, lines 13-14). Prior or subsequent movement of the pointer symbol to menus, toolbars and control panels and/or outside of the medical image, and actuation of the

Appln. No. 09/864,107  
Amdt. dated March 16, 2005  
Reply to Office Action dated January 26, 2005

mouse button when the pointer symbol is situated on such menus, toolbars and control panels and/or outside of the medical image are not required to generate the different measurement graphics. In this manner, excessive mouse travel when generating measurement graphics (e.g., to menus, toolbars, control panels and outside of the medical image) is avoided.

The Examiner's rejection is respectfully traversed on the grounds that Echerer et al. and Fenster do not disclose, teach or suggest, inter alia, enabling the generation of measurement graphics based only upon actuation of a mouse button when the pointer symbol is situated on the medical image without actuation of the mouse button when the pointer symbol is situated on menus, toolbars and control panels.

Echerer et al. disclose a menu selection including a Manual Analysis menu wherein it is necessary to select specific buttons on the menu in order to generate a measurement graphic. An example is provided of pressing a "Distance" button in order to set the program to understand that the distance between the position of the mouse at the next two clicks of the mouse button is to be measured (see col. 13, lines 28-34). Echerer et al. thus requires activation of the menu toolbar in order to generate different graphics.

Appln. No. 09/864,107  
Amdt. dated March 16, 2005  
Reply to Office Action dated January 26, 2005

Fenster discloses an ultrasound imaging system which allows a user to measure distances and areas of three-dimensional images by clicking two or three times on a graphical user input device 38 when a pointer symbol representing the position of the input device 38 is situated on the image.

However, in order to enable the measurement of the distance or area using the input device 38, Fenster unequivocally teaches that a Measure icon must be selected from a control display window shown in Fig. 13 (see col. 16, lines 53-64 and col. 19, lines 3-4 "[W]hen the Measure icon is selected, a measure display window appears on the screen"). Without moving the mouse to position the cursor on the Measure icon and then clicking on the Measure icon, it is not possible to generate measurements in Fenster. Clicking the mouse while the cursor is positioned on the image (without prior clicking on the Measure icon) will not generate measurements but rather will cause rotation of the image (see col. 12, line 56 to col. 13, line 21).

As such, Fenster requires actuation of the mouse (clicking) when the cursor is situated on a menu, toolbar or control panel (which terms encompass the control display window shown in Fig. 13) in order to generate measurement graphics.

Appln. No. 09/864,107  
Amdt. dated March 16, 2005  
Reply to Office Action dated January 26, 2005

Echerer et al. and Fenster therefore do not disclose, teach or suggest generating or enabling the generation of a plurality of different measurement graphics based only upon actuation of a mouse button when a pointer symbol is situated on the medical image without actuation of the mouse button when the pointer symbol is situated on menus, toolbars and control panels. Rather, both Echerer et al. and Fenster require movement of the mouse to position a pointer symbol (cursor) on a menu, toolbar or control panel in order to enable different measurement graphics to be generated. The measurement techniques of Echerer et al. and Fenster therefore involve excessive mouse travel which is avoided in the present claimed invention.

In view of the foregoing, claim 1 is patentable over Echerer et al. and Fenster when taken either alone under 35 U.S.C. §102 or in combination under 35 U.S.C. §103.

The other references of record do not close the gap between the present claimed invention as defined by claim 1 and Echerer et al. in view of Fenster.

Therefore, claim 1 and claims 2-9, 19 and 21 which are either directly or indirectly dependent on claim 1 are patentable over all of the references of record under 35 U.S.C. §102 as well as 35 U.S.C. §103.

Appln. No. 09/864,107  
Amdt. dated March 16, 2005  
Reply to Office Action dated January 26, 2005

Claim 10 is an apparatus claim and claim 19 is a machine readable computer program claim which are patentable over the cited references for reasons, inter alia, set forth above in connection with claim 1. As discussed above, Echerer et al. and Fenster do not disclose, teach or suggest enabling the generation or production of measurement graphics based only upon actuation of one or more buttons of a pointing device when a pointer symbol is situated on a medical image without actuation of the pointing device's button(s) when the pointer symbol is situated on menus, toolbars and control panels.

Claims 11-18 which are either directly or indirectly dependent on claim 10 are patentable over the cited references in view of their dependence on claim 10 and because the references of record do not disclose, teach or suggest each of the limitations set forth in claims 11-18.

Claims 23 and 24 are method claims which are patentable over the cited references for reasons, inter alia, set forth above in connection with claim 1. Specifically, Echerer et al. and Fenster do not disclose, teach or suggest enabling the generation of different measurement graphics based only upon actuation of one or more buttons of a mouse when a pointer symbol is situated on a medical image without actuation of the mouse button(s) when the

Appln. No. 09/864,107  
Amdt. dated March 16, 2005  
Reply to Office Action dated January 26, 2005

pointer symbol is situated outside of the medical image, e.g., positioned on menus, toolbars or control panels, or without movement of the pointer symbol outside of the medical image, e.g., to menus, toolbars or control panels.


\* \* \* \* \*

If the Examiner disagrees with any of the foregoing, the Examiner is respectfully requested to point out where there is support for a contrary view.

Entry of the amendment, allowance of the claims, and the passing of the application to issue are respectfully solicited.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,



Robert P. Michal  
Reg. No. 35,614

March 16, 2005

Frishauf, Holtz, Goodman & Chick, P.C.  
767 Third Avenue - 25th Floor  
New York, New York 10017-2023  
Tel. No. (212) 319-4900  
Fax No. (212) 319-5101  
RPM/ms

- 19 -